

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.27290 OF 2005

-

ORAL ORDER:

This writ petition is filed seeking a declaration that the order of the 1st respondent dated 28.5.2005 in C.M.A.No.21 of 2005 thereby, confirming the order of ejection passed by the 2nd respondent dated 22.11.2004 in L.T.R.C.No.5 of 2004 under the provisions of the A.P. Scheduled Area Land Transfer Regulation 1 of 1959, as amended by Regulation 1 of 1970, is arbitrary and illegal.

The petitioner claims to be the owner of the land to an extent of Ac.2.04 guntas situated in Sy.No.237 of Dharmapuram village, Bayyaram Mandal, Khammam district, which is declared as a scheduled area. It appears that the 2nd respondent having initiated the proceedings under Section 3 of Regulation 1 of 1959 read with Regulation 1 of 1970, in respect of the said land in Sy.No.237, passed an order of ejection dated 22.11.2004, holding that the 4th respondent herein, by name Thummalapalli Pushpavathi, whose name finds place in the occupants column in the revenue records for the year 2004-05, was in possession in violation of the provisions of Regulation 1 of 1959. Accordingly, the Mandal Revenue Officer, Bayyaram was directed to take over possession of the land and to assign the same to the eligible tribals. Aggrieved by the same, the writ petitioner filed C.M.A.No.21 of 2005 before the 1st respondent pleading that though he was in actual possession and enjoyment of the land in question, the order of ejection was passed by the 2nd respondent without notice to him on the assumption that the 4th respondent was in possession. It is also alleged that the 3rd respondent-Mandal Revenue Officer, Bayyaram, had deliberately incorporated the name of the 1st respondent in the revenue records in the cultivators' column. The 1st respondent disposed of the said appeal by order dated 28.5.2005, confirming the finding recorded by the 2nd respondent that the 4th respondent was in possession of the land in question.

Aggrieved by the same, this writ petition is filed pleading that the findings

recorded by the respondents 1 and 2 are incorrect and untenable. It is further pleaded that the 4th respondent was only a fictitious person. The pattedar pass book issued by the Mandal Revenue Officer, Bayyaram in favour of the petitioner is placed before this Court to support the petitioner's claim.

Heard the learned counsel for the petitioner and the learned Government Pleader for Social Welfare, appearing for the respondents.

Admittedly, the order of ejection by the 2nd respondent was passed behind the back of the petitioner and even the Appeal was decided without hearing him. It is true that the 1st respondent recorded that the petitioner/appellant was absent on 28.5.2005, however, keeping in view the title and possession claimed by the petitioner, I deem it appropriate to afford one more opportunity to the petitioner to substantiate his claim.

Accordingly, the order passed by the appellate authority dated 28.5.2005 in C.M.A.No.21 of 205 is set aside.

It is made clear that the writ petitioner shall make himself available before the 1st respondent within a period of four weeks from the date of receipt of this order and thereafter it is open to the 1st respondent to fix appropriate date for hearing and the matter shall be decided within a period of eight weeks thereafter. Till such time the order of ejection dated 22.11.2004 shall not be given effect to.

The writ petition is accordingly, disposed of. No costs.

(G. ROHINI, J.)

12th June, 2006.

Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.27290 OF 2005